

Committee Comments

Rule A. A civil action that alleges purely equitable, non-money damage claims is not within the scope of these rules. In a multi-count complaint that contains some equitable counts and some legal, money-damage counts, these rules may apply if the amount of money damages sought is \$50,000 or less. If all parties who have appeared agree to opt in or opt out of the application of these rules to the action, a joint stipulation to that effect may be filed with the clerk and the court may not reject or disallow such stipulation. If all parties do not agree, then a motion must be filed and the movant has the burden of showing good cause for a change in track assignment.

Rule B. To trigger the application of these rules, the ad damnum clause of the complaint must limit the damages claimed by plaintiff(s) to an amount of \$50,000 or less. The complaint must also elect assignment of the case to an expedited track, pursuant to the Alabama Rules of Procedure for Expedited Civil Actions. It is suggested that plaintiff(s) express some conspicuous statement in the caption or style of the complaint, such as, "Complaint for \$50,000 or Less pursuant to the Alabama Rules of Procedure for Expedited Civil Actions," or "NOTE: Plaintiff limits the demand for and recovery of damages to \$50,000 or less and seeks application of the Alabama Rules of Procedure for Expedited Civil Actions." For a complaint to comply with this rule, the staff of the circuit clerk's office should be able to easily and non-ambiguously determine from the face of the complaint that the plaintiff intends to limit the demand to \$50,000 or less and seeks application of the Alabama Rules of Procedure for Expedited Civil Actions. Subject to some amended pleading or some action by the parties to "opt in," a complaint that contains an open-ended ad damnum clause and merely claims something like "an amount to be determined by the trier of fact" is not initially assignable to an expedited track within the coverage of these rules.

Rule C. In a multi-count and/or multi-party action, the complexity or the amount in controversy may render application of these rules inappropriate. Where new claims and/or parties are added (for example, a permissive counterclaim seeking more than \$50,000), the court may utilize the procedures of severance or separate trial in order to keep the original action within these rules and on an expedited track.

Rule D. The discretion granted the trial court under this rule is intended to be similar to Alabama Rule of Civil Procedure 33, which provides that, "for good cause shown, the court may increase the number of interrogatories that a party may serve"

Rule E. This rule is an exception to the Alabama Rules of Evidence in that a party may elect to present expert opinion evidence via an expert's written report or affidavit, in lieu of deposition or live testimony. If otherwise admissible (e.g., deemed by the court to be relevant and admissible under Rule 702), this form of expert evidence is admissible, notwithstanding the hearsay objections that would otherwise apply.

Rule F. The two principal types of dispositive motions contemplated herein are motions for summary judgment and Rule 12(b)(6) motions to dismiss.

Rule G. The mechanism or method for keeping time is left to the trial court's discretion. The parties are encouraged to stipulate to as many factual and evidentiary matters as possible, as well as streamline the trial process by limiting the number of live witnesses. One intent of this rule is to relax the ordinary principles of authenticity so that a party can offer into evidence such items as photographs, medical records, computer print-outs, and other documents without deposing or calling as a trial witness the custodian or maker of the record, unless the opposing party can prove to the court that there is some genuine issue about the authenticity of the document or item of evidence. The parties are also encouraged to stipulate to a jury of less than 12 jurors, in light of the potential cost savings and conservation of court resources.

A party may argue to the jury for a verdict amount in excess of \$50,000, and these rules do not prohibit a jury from returning a verdict in excess of \$50,000. However, unless all parties have agreed that the plaintiff is not bound by the \$50,000 limitation, the court may not enter a judgment for the plaintiff in excess of \$50,000. So, for example, if a jury returns a verdict in plaintiff's favor for \$70,000, the court would enter judgment for \$50,000.

"Plaintiff(s)" does not include defendants who file counter-claims, cross-claims or third-party claims for damages in excess of \$50,000 as addressed in Rule C.

Rule H. If a point of procedure or evidentiary law is addressed by these rules, then these rules apply. If these rules are silent on the point in question, then the general Alabama Rules of Civil Procedure and Alabama Rules of Evidence and other applicable rules, statutes, or case law shall control.